

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: Doris M. Colyer aka Doris Madeleine  
Hamlett aka Doris Madeleine Hamlett  
Colyer aka Doris Hamlett aka Doris M.  
Hamlett aka Doris Colyer aka Doris M.  
Colyer

Debtor

Terry Colyer

Co-Debtor

Rushmore Servicing as servicer for  
U.S. Bank National Association as  
Legal Title Trustee for Truman 2016  
SC6 Title Trust

v.

Terry Colyer

Doris M. Colyer aka Doris Madeleine  
Hamlett aka Doris Madeleine Hamlett  
Colyer aka Doris Hamlett aka Doris M.  
Hamlett aka Doris Colyer aka Doris M.  
Colyer

Terry Colyer – Co-Debtor

Jack N. Zaharopoulos

Respondents

CASE NO.: 23-02159-MJC

CHAPTER 13

Judge: Mark J. Conway

Hearing Date: May 9, 2024 at 10:00AM

Objection Deadline: April 29, 2024

**MOTION FOR RELIEF FROM THE**  
**AUTOMATIC STAY AND CO-DEBTOR STAY**

Rushmore Servicing as servicer for U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust (on behalf of itself and together with any successor and/or assign, “Movant”) hereby moves this Court for an Order (i) pursuant to 11 U.S.C. § 362 (d)(1); vacating the automatic stay to permit Movant, its successors and/or assigns, to enforce its mortgage on the Debtor’s premises located at 1612 Marjorie Court, East Stroudsburg, PA 18302; vacating the co-debtor stay in effect pursuant to 11 U.S.C. § 1301(a) and (ii) for such other and further relief as is just and proper. In support of this Motion, Movant respectfully states:

1. The Petition under Chapter 13 of the United States Bankruptcy Code was filed by

the Debtor Doris Madeleine Colyer on September 20, 2023.

2. Movant is the holder of a Note executed by Co-Debtor, Terry L. Colyer, dated September 26, 2008, whereby the Debtor promised to repay \$228,883.00 plus interest to Security Atlantic Mortgage Co., Inc. (the “Original Lender”). A copy of the Note is marked **Exhibit “A”** and attached hereto.

3. To secure the repayment of the Note, Debtor and Co-Debtor executed a Mortgage in favor of Mortgage Electronic Registration Systems, Inc. ("MERS") as nominee for Security Atlantic Mortgage Co. Inc., encumbering the Property commonly known as 1612 Marjorie Court, East Stroudsburg, PA 18302, which Mortgage was recorded in the Official records of Monroe County at Book 2343, Page 1575 (hereinafter “Mortgage”). Other than liens with statutory priority, Movant’s mortgage is in first lien position. A copy of the recorded Mortgage is marked **Exhibit “B”** and attached hereto.

4. Co-Debtor entered into a Loan Modification Agreement, made effective May 1, 2017, which created a new principal balance of \$216,549.50. A copy of the Loan Modification Agreement is attached hereto as **Exhibit “C.”**

5. The Mortgage was ultimately assigned to Movant by an Assignment of Mortgage. A copy of the chain of Assignments of Mortgage are marked **Exhibit “D”** and attached hereto.

6. Debtor, Doris Madeline Colyer, maintains interest in the property as it is currently used as their primary residence.

7. Pursuant to 11 U.S.C. §362 (d)(1), the court shall enter an order granting a secured creditor relief from the automatic stay for cause “including the lack of adequate protection of an interest in property of such party and interest.”

8. Specifically, courts have found cause for the granting of relief from an automatic

stay where the debtor has failed to make post-petition mortgage payments as they become due.

9. A copy of the Local Bankruptcy Form 4001-1 (the “Declaration”), outlining the post-petition default, is attached hereto as **Exhibit “E”**.

10. Under the Mortgage, payments were due in the amount of \$1,110.63/month, which included principal and interest in the amount of \$606.13.

11. Debtor has failed to make current mortgage payments due under the terms of the Loan. As a result, the Loan remains post-petition due for December 1, 2023, and each subsequent payment thereafter.

12. The following monthly payments are now past due:

<b><u>Monthly payments due</u></b>	<b><u>Amount</u></b>
December 1, 2023 through March 1, 2024 (4 monthly payments of \$1,110.63 each month)	\$4,442.52
Debtor’s suspense	(\$28.74)
Accrued Late Charges	\$0.00
Filing Cost for Motion for Relief	\$199.00
Attorney’s fees for Motion for Relief	\$1,050.00
TOTAL	\$5,662.78

13. Movant will be irreparably injured by continuation of the co-debtor stay imposed under 11 U.S.C. § 1301(a) absent payments from the Debtor and/or Co-Debtor. As such, the co-debtor stay should be lifted pursuant to 11 U.S.C. § 1301(c)(3), and Movant should be permitted to proceed against the Co-Debtor.

14. Accordingly, grounds exist to vacate the stay in Debtor’s case and Movant therefore requests that the co-debtor stay imposed under 11 U.S.C. § 1301(a) of the Bankruptcy Code be modified and terminated for cause to permit Movant to pursue its rights against the Co-Debtor under the Mortgage and applicable law, including without limitation, the commencement and consummation of a foreclosure action and/or eviction proceeding.

15. Movant respectfully requests reasonable attorney fees in the amount of \$1,050.00 and costs in the amount of \$199.00.

**WHEREFORE**, Movant respectfully requests an Order of this Court vacating the automatic stay for cause pursuant to 11 U.S.C. § 362 (d)(1); vacating the automatic stay to permit Movant, its successors and/or assigns, to enforce its mortgage on the Debtor's premises located at 1612 Marjorie Court, East Stroudsburg, PA 18302; vacating the co-debtor stay in effect pursuant to 11 U.S.C. § 1301(a); and for such other, further and different relief as to this Court may deem just, proper and equitable.

Dated: 04/15/2024

By: /s/ Lauren Moyer

Lauren Moyer, Esq.

**FRIEDMAN VARTOLO LLP**

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